

1992

FAROUK MEHIO, Plaintiff (APPELLANT) VS.
JOHN GRABER, UTAH HIGHWAY PATROL
and THE STATE OF UTAH Defendant : Brief of
Appellant

Utah Court of Appeals

Follow this and additional works at: https://digitalcommons.law.byu.edu/byu_ca1

 Part of the [Law Commons](#)

Original Brief Submitted to the Utah Court of Appeals; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Brent A. Burnett; Attorney General's Office; attorney for appellant.

Farouk Mehio; attorney Pro-Se.

Recommended Citation

Brief of Appellant, *Mehio v. Graber*, No. 920877 (Utah Court of Appeals, 1992).
https://digitalcommons.law.byu.edu/byu_ca1/4884

This Brief of Appellant is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Court of Appeals Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html. Please contact the Repository Manager at hunterlawlibrary@byu.edu with questions or feedback.

DOCKET NO. 920877

IN THE UTAH SUPREME COURT
STATE OF UTAH

FAROUK MEHIO,
Plaintiff (APPELLANT)

YS.

**JOHN GRABER, UTAH HIGHWAY
PATROL and THE STATE OF UTAH**

Defendant.

)
) Civil No. C-8703482

1) Appeal No.

92-08774-CA

BRIEF OF APPELLANT

Appeal from the third judicial court Salt Lake County and State of

Honorable Kenneth Rigtrup.

Mr. Brent A. Burnett
Attorney General's Office
236 State Capital
Salt Lake City, Utah
84114

Farouk Mehio
1113 E. 2100 So.
Salt Lake City, Utah
Phone (801) 486-5363
Attorney Pro-Se

IN THE UTAH SUPREME COURT
STATE OF UTAH

FAROUK MEHIO,)	
Plaintiff (APPELLANT))	Civil No. <u>C-8703482</u>
vs.)	
)	
)	Appeal No. <u>920342</u>
JOHN GRABER, UTAH HIGHWAY)	
PATROL and THE STATE OF UTAH)	
)	
Defendant.)	
)	

BRIEF OF APPELLANT

Appeal from the third judicial court Salt Lake County and State of Utah.

Honorable Kenneth Rigtrup.

Mr. Brent A. Burnett
Attorney General's Office
236 State Capital
Salt Lake City, Utah
84114

Farouk Mehio
1113 E. 2100 So.
Salt Lake City, Utah
Phone (801) 486-5363
Attorney Pro-Se

Table of Contents

Table of Authorities and Statutory authorities cited.	i
Statement of Jurisdiction.....	ii
Statement of the Issues	i, ii, iii
Statement of the Case	4
Summary of the Argument	5
Outline of the Argument.....	6

Statement of Case

I. The Honorable Judge Rigtrup told the plaintiff it did not matter what he did, but that he still needed an attorney for record. The Plaintiff hired attorney Mr. Danny Frazier.

II. The plaintiff's trial counsel, Mr. Danny Frazier, did not act for the plaintiff, Mr. Farouk Mehio.

III. The plaintiff's attorney, Mr. Frazier, told the plaintiff, Mr. Mehio, that the defendants counsel, Mr. Ogivio, would give him \$20,000.

IV. The plaintiffs trial counsel's failure to put officer John Graber on the stand for questioning.

V. The plaintiffs trial counsel's failure to put Mr. Vern Bliss, the individual who filed the complaint, on the stand for questioning.

VI. The plaintiffs trial counsel's failure to put Miss Carol Jensen on the stand for questioning. Miss Jensen lied to the officer about Mr. Mehio.

VII. The Plaintiff, Mr. Mehio, stood up and said, "Your Honor, Mr. Frazier did not question Mr. Bliss or Miss Jensen. Mr. Frazier is no longer representing me.

VIII. Why did the honorable Judge Rigtrup tell Mr. Frazier to continue to represent the plaintiff Mehio after Mehio dismissed him as his counsel?

IX. The next day the Honor Rigtrup called all counsel to come to his chambers.

X. Miss Jensen was testifying. Plaintiff gave counsel restraining order. Judge calls recess.

XI. Mehio overheard Mr. Frazier telling Defence attorney Mr. Ogivio that he told Dr. Tobler not to come to court. Judge said he heard it also and said to call him again.

The Plaintiff

XII. After Mr. Mehio Discussed Mr. Frazier the second time, the plaintiff gave to the court a medical document and pictures of his nerve damage, this information has been given to the court before, the judge will not accept the medical report of nerve damage if the doctor is not present.

Conclusion	-	-	-	-	-	-	-	-	8
									11
Appendixes	-	-	-	-	-	-	-	-	

TABLE OF AUTHORITIES
CASES CITED

CASES LAW	PAGE
Hafer V. Melo et. al. u.s. - 112. SCT. 358. (1991).	8
Henry V. United State, 361, u.s. 98, 101 (1959)	8
Brinnegarar V. United States, 338 u.s. 160 (1949)	8

In the Utah Supreme Court
State of Utah

Farouk Mehio
Plaintiff

Brief

Appeals No. 920342

v.

John Graber, Utah
Highway Patrol and
State of Utah
Defendant

Civil No. C-8703482

Priority

Statement of Jurisdiction

Jurisdiction for the above captioned matter is conferred upon the Utah Supreme court of appeals pursuant to Utah Code annotated section rule 24, 26 and 27.

Statement of Issues

1. Did the Honorable Judge Rigtrup tell the plaintiff, Mr. Mehio, it doesn't matter what you do, you still need an attorney for the record. The plaintiff said he would call the attorney, Mr. Danny Frazier, who made the trial brief.

2. Did the plaintiff's counselor Mr. Frazier did not act for the plaintiff Mr. Mehio. Mr. Frazier did act for the defendant's counsel, Mr. Edward O. Ogilvio.

3. Did the plaintiff's attorney, Mr. Danny Frazier told Mr. Mehio they would give him \$20,000 but the plaintiff, Farouk Mehio, said, "No, first justice, and money later." Mr. Mehio refused the \$20,000 three years ago. Mr. Mehio did not pay the fine, and was put in jail again for 15 days. Plaintiff did pay the fine of \$625.00 plus 40 hours of community service.

4. Did the plaintiff's counsel fail to put the officer John Graber on the stand for questioning?

5. Did plaintiff's counsel fail to put the complainant, Mr. Vern Bliss on the stand for questioning?

6. Did the plaintiff's counsel fail to put the complainant, Miss Carole Jensen and officer Graber on the stand for questioning? They are the ones who made the story inside the apartment and inside the hallway.

7. The Plaintiff told the Honorable Judge Rigrup, "Mr. Frazier is no longer representing me because he didn't question Miss Jensen, Vern Bliss or Officer John Graber."

8. The Honorable Judge Rigtrup got upset and he said to the attorney Mr. Frazier to sit down and continue to represent me without my permission. He then told the plaintiff Farouk Mehio to sit down. Then Judge Rigtrup dismissed the state of Utah any liable in this case. Mr. Mehio asked Mr. Frazier, "you the one who made the brief for this case and you said they are liable under 42 U.S.C.S., 1983.

9. The next day the Honorable Judge Rigtrup called all counsel to his chambers. When the plaintiff, Farouk Mehio, apologized the judge said about Mr. Frazier, "He is a good attorney."

10. Miss Jensen was testifying and the plaintiff Farouk Mehio gave his counsel Mr. Frazier the restraining order document. Here the honorable judge Rigtrup stopped and took a five minute recess.

11. Why did Mr. Frazier go out? Twenty minutes later Mr. Frazier stopped and told defence attorney Edward O. Ogilvio he just called Dr. Tobler and told him "Don't come to the court and the court will not punish you if you don't come because your suppena is one year old. The plaintiff Farouk Mehio heard him.

12. The honorable judge came back in session, the plaintiff Farouk Mehio stood up and told the honorable judge Rigtrup he just heard plaintiff's counsel tell the above story to Mr. Edward O. Ogilvio. The Honorable judge said I

Statement of the Case

This appeal is from the third judicial court of Salt lake County and the state of Utah, on May 6, 1992.

The trial held by the Honorable Kenneth Rigrup, and without a jury, the plaintiff appearing in person, and defendant appearing through his counsel, Mr. Edward O. Ogilvie. Assistant attorney General, and Mr. Graeme Henderson, third year law student.

The facts of which appeared on Oct. 5, 1986 on appeal, the respondent raised four issues as to inadequate representation. Namely,

- 1) Lack of trial preparation,**
- 2) Failure to question the indispensable witnesses.**
- 3) Objected to introducing medical expert testimony
substantiation respondent's testimony of Neck and Head injury.**
- 4) Failure to present pertinent testimony.**

There are many inconsistencies in Ms. Jensen's deposition taken Oct. 14, 1987 that are significant and would effect the outcome of the case.

Ms. Jensen was confused about the time she returned to her apartment and that she saw Mr. Mehio the second time, in the parking lot on Oct. 5th. If Mr. Mehio was there. Why didn't he go to the apt? The Reason Mr. Mehio didn't go in to the apt. was that he was not there at that time. Mr. Mehio was told by Ms. Jensen and Mr. Bliss to come later. If Mr. Mehio was going to harm Ms. Jensen why would he leave her alone? Ms. Jensen and Mr. Bliss told Mr. Mehio to come back in 30 to 45 minutes.

Mr. Mehio did go to Ms. Jensen's apt. about 6 p.m. to retrieve his key to the building and heart diamond necklace.

Summary of the Arguments

1. The Honorable Rigtrup told the plaintiff, Mehio, it doesn't matter what the plaintiff does, he still needs an attorney for the record. This is the case.
2. The plaintiff's counselor Mr. Frazier did not act for the plaintiff Mr. Mehio. But he did help the defendant counselor Mr. Edward Ogilvio by calling Dr. Tolber and tell him not to come to the court. This is the case.
3. The plaintiff's attorney, Mr. Frazier told Mr. Mehio they will give you \$20,000. However, the plaintiff, Farouk Mehio, said, "No, first justice, and the money later. Mr. Mehio refused the money three years ago. Mr. Mehio at that time did not pay the fine of \$625.00 plus 40 hours of community service. He paid the balance of \$475.00 and what was left 39 1/2 hours. This is the case.
4. The plaintiff's counsel failed to put the officer John Graber on the stand for questioning! This is the case.
5. The plaintiff's counsel failed to put the complainant, Mr. Vern Bliss on the stand for questioning! The results would be different! This is the case.
6. The plaintiff trial counsel's failure to put Ms. Jensen on the stand for questioning! Ms. Jensen lied to the officer about Mr. Mehio and his black belt in Karate. If Mr. Frazier re-questioned Ms. Jensen, the result would be different! This is the case.
7. The plaintiff Mehio told Honorable Judge Rigtrup, " Mr. Frazier is no longer representing me."

Because he didn't question Ms. Jensen, Mr. Vern Bliss or officer John Graber. Mr. Danny Frazier is defendant's counsel Mr. Ogilvio using his influence on Mr. Frazier! This is the case!

Outline of Argument

1.

The plaintiff's trial counsel's failure to put the witness on the stand for questioning.

The plaintiff was not allowed to prove that he is the victim. By not being allowed to present all of his evidence related to his injury, justice was not served.

Point I

OFFICER GRABER IS A "PERSON" SUBJECT TO LIABILITY UNDER 42 U.S.C. 1983

Traditionally, a Plaintiff's suit under 42 U.S.C. 1983 for misconduct by a public official acting in his official capacity was essentially considered a suit against the state, therefore, claims requesting money damages were barred. However, the Supreme Court has recently interpreted the broad language of 42 U.S.C. 1983 so as to allow public officials to be held personally liable for 42 U.S.C. 1983 violations performed while acting in their official capacity. The case Hafer v. Melo et. al., — U.S. —, 112 S.Ct. 358 (1991), states the appropriate law.

Hafer was a case involving 42 U.S.C. 1983 action brought by discharged employees of the common wealth of Pennsylvania against the Pennsylvania Auditor General. The Federal District Court dismissed the 1983 claims and the Court of Appeals reversed. Certiorari was granted and the Supreme Court affirmed. The Court's opinion holding public officials subject to personal liability, however, does not mean a public official may not be held liable

under 42 U.S.C. 1983 for actions in his official capacity. A public official acting in his official capacity relates to the capacity in which the state officer is sued and not the capacity in which the officer inflicts the alleged injury. The Court went on the state that such suits are not barred by the eleventh amendment. Id at 359, 360. The Court went on to state that "...on the merits, to establish personal liability in a 42 U.S.C. 1983 action, it is enough to show that the official, acting under color of state law, caused the deprivation of a Federal right." Id at 362. There is, therefore, no requirement to establish a connection to governmental policy or custom.

In summary, Defendant's argument against applicability of the term "persons" is clearly without merit. Based on the legal discussion above, Officer Graber meets the requirement of a person under the construction of 42 U.S.C. 1983 and is therefore subject to liability for his actions taken in his personal capacity. Furthermore, there is no need to establish the element of governmental policy or custom when suing an officer and a public official in his personal capacity.

Point II

PLAINTIFF WAS DEPRIVED OF ESTABLISHED FEDERAL RIGHTS.

Plaintiff Mehio suffered irreparable and permanent damage as a result of the injury inflicted upon him by Officer Graber, clearly, where an individual is harmed as result of the conduct of a public official, that public official stands liable for monetary damages. Officer Graber's actions were not prudent in light of the lack of evidence or testimony from Plaintiff Mehio, Mehio was subjected to unnecessary force in order to be arrested twice by both the officer and the complainant Ms. Jensen and Plaintiff's detention prior to the arrest was excessively long and unreasonable.

At the time the incident occurred, according to Officer Graber's own testimony, Officer Graber told Plaintiff at the time that Officer Graber opened the door that he was under arrest and to submit to a frisking, however, after approximately 30-45 minutes and while Plaintiff was laying on his stomach handcuffed, the same officer brought the complainant Ms. Jensen out and instructed Ms. Jensen to place the Plaintiff under arrest which she did. Officer Graber's actions clearly evidence a lack of reasonable suspicion due to the fact that he had not at that time adequately investigated the matter. Up to that point, no information had been received besides that of the complaining parties. Officer Graber had not made any attempt to independently verify the information given by the complainants. The Supreme Court has stated that in order to establish probable cause to arrest "...common rumor or report, suspicion, or even strong reason to suspect will no suffice." Henry v. United States, 361 U.S. 98, 101 (1959); Brinegar v. United States, 338 U.S. 160 (1949).

Officer Graber had only heard one side of the story, and not even that had been verified and the fact that he instructed the complainant to perform a citizens arrest further indicated the lack of reasonable suspicion or probable cause on the part of Officer Graber.

Excessive and unreasonable conduct is shown by the fact that Plaintiff Mehio had been subjected to two warnings that he was under arrest. At the time Officer Graber first came to the door, Officer Graber told Mehio that he was under arrest, however, this statement was false at the time it was made since Officer Graber indicated in his testimony that Plaintiff was not under arrest by the officer, but was subsequently placed under arrest by the complainant. This point was not communicated to Mehio. The conduct of Officer Graber was, therefore, unreasonable and excessive in this instance.

Prior to the arrest by Ms. Jensen, Plaintiff Mehio had been wrestled to the ground, had his legs knocked out from under him and handcuffed, all through the use of force. Even after Mehio was handcuffed, Officer Graber continued to apply excessive force to keep Mehio on the ground and when backup arrived, instructed the other officer not to let Mehio up. Despite Graber's instructions, the other officer helped Mehio to his feet, whereupon Graber coming out and seeing him standing, yelled at the other officer telling him that he did not want his "prisoner" Mehio up on his feet and to keep him down. The conduct of the second officer, in the face of specific instructions from Officer Graber, indicate that keeping Mehio on the floor on his stomach, handcuffed was unreasonable and unnecessary, hence the conduct of the backup officer.

When asked about the arrest during a deposition, Plaintiff's attorney asked "If I told you my receptionist was a danger and threatened me, would you go arrest her." Answer, "If you wanted to place her under arrest, I am obligated to act according to your response." Officer Graber's understanding of the law in addition to his conduct in accordance with this unreasonable interpretation clearly evinces unreasonable circumstances.

Point III

PLAINTIFF'S DIFFICULTY WITH THE ENGLISH LANGUAGE HAS PROHIBITED HIM FROM TELLING THE TRUE STORY

According to Plaintiff Mehio, Complainant Jensen was still in love with him. Approximately two months after the occurrence of the incident on October 5, 1986, Plaintiff and Ms. Jensen spent the night together and this occurred on more than one occasion. On one of these occasions, Plaintiff received a Summons which had been pushed under his door.

Jensen then related to Plaintiff that she would drop her charges, but later informed him that he first had to drop his suit or else she (Ms. Jensen) would be held liable. Jensen continued to cultivate a relationship with Plaintiff and sent him numerous cards and letters expressing her deep feelings for him. Jensen called Plaintiff's home on numerous occasions, sometimes in the middle of the night simply to say "I Love You."

With regard to the events on the date in question, Plaintiff indicates that he approached Ms. Jensen's door fully aware of the presence of the police and hoping that they were at Ms. Jensen's house so as to avoid any violence due to the threats that had been made on his person by Jensen's companion Vern Bliss. Upon knocking normally upon the door, it was opened by Officer Graber who immediately forced him against the wall telling him to put his hands behind his back. Plaintiff was openly upset and questioning Officer Graber concerning the reason for this conduct, Graber did not respond except to call Plaintiff racially biased names such as "camel jockey". Officer Graber had Plaintiff in a position so that Plaintiff's head and neck were thrown violently against the wall with the full weight of Officer Graber's body pushed against Plaintiff's body.

Next, without any warning, Plaintiff's feet were taken out from under him and Plaintiff was thrown violently head first on to the ground, whereupon Officer Graber continued to handcuff Plaintiff while placing the knee or foot of the other leg in Plaintiff's mid to lower back area. The officer continued to use racial epithets. After Plaintiff was handcuffed, he was forced to remain on the ground, lying flat on his stomach while the officer stood with one leg in his back.

All Plaintiff remembers is seeing another police officer who helped Plaintiff to his feet. However, Officer Graber upon seeing Plaintiff on his

feet, yelled at the other officer, telling him to put Plaintiff back on his stomach on the ground. Plaintiff then heard Ms. Jensen state to Officer Graber telling him to come back inside and finish his Pepsi. Plaintiff was then taken to the car to a police vehicle.

CONCLUSION

1. Request a new trial, different judge.
2. A jury trial
3. The Plaintiff Farouk Mehio, prays the court will see in his favor.
4. For general damage to be proved at the court trial.
5. To clear my name of all the action of Salt Lake City Corporation against the plaintiff Farouk Mehio.

Respectfully submitted this 24th day of November 1992

Farouk Mehio

Farouk Mehio Pro SE

Hand Delivery

I hereby delivered a true and correct copy of the brief of appellant to
Mr. Brent A. Burnett.

Attorney General's office

236 State Capital

Salt Lake City, Utah. 84114

Questions of Deposition

A comparison of deposition of officer Graber and Miss Jensen reveal a discrepancy of who opened the door, p (19 C n s 12, 13, 14 & 15; Page # 20 Line 11 + 12 of Ms. Jensen's deposition. Mr. Graber's Deposition page # 17, Lines 7,8,9, 10, 11, 12, 13,14 and 15.

Ms. Jensen's deposition page # 9, Line # 2,3,4,5,6,7,8,9,10, 11,12,13, and 14, does not say that Mr. Bliss mirror on the truck struck Mr. Mehio's shoulder and head. Ms. Jensen's deposition page #6-L 25. page #7- L 1-18. Ms. Jensen 's saying Mr. Mehio was beaten on window of driver's side of the truck.

Ms. Jensen was confused in her answers on page 14, lines #1 through #25. Also Mr. Bliss said police incident report P-1-L-2 Mr. Mehio was pounding on his windshield.

Mr. Bliss testimony of trial held May 6th to 14th said that the mirror of his truck hit Mr. Mehio on the shoulder and head while in the parking lot in Mr. Bliss's testimony.

De Dr. Kathleen B. Digre, M.D.

Page 22, 23,24,26,27,28,29,30,31,35,37,38,39

IN THE THIRD JUDICIAL DISTRICT COURT
FOR SALT LAKE COUNTY
STATE OF UTAH

FAROUK MEHIO,

PLAINTIFF,

VS.

JOHN GRABER, UTAH HIGHWAY
PATROL, AND THE STATE OF
UTAH,

DEFENDANTS.

CIVIL NO. C-8703482

DEPOSITION OF JOHN GRABER

TAKEN SEPTEMBER 14, 1987

Reported By
PATTI WALKER, CSR, RPR, CP
File No:
09-14-27P

ALPHA
Court Reporting Service
P.O. Box 510047
Salt Lake City, Utah 84151-0047
(801) 532-5645

1 Deposition of John Graber, taken on behalf
2 of plaintiff at 3760 South Highland Drive, #500,
3 Salt Lake City, Utah commencing at 3:45 p.m. on
4 Monday, September 14, 1987, before Patti Walker,
5 Certified Shorthand Reporter, Registered Professional
6 Reporter, C.P., and Notary Public in and for the
7 State of Utah, pursuant to Rules 26 and 30, U.R.C.P.
8
9

10 *****

11 APPEARANCES OF COUNSEL:

12 For the Plaintiff: James E. Hawkes
13 Attorney at Law
14 500 Huntsman Coodson Plaza
15 3760 South Highland Drive
16 Salt Lake City, Utah 84106

17 For the Defendants: Edward O. Ogilvie
18 Assistant Attorney General
19 Litigation Division
20 236 State Capitol
21 Salt Lake City, Utah 84114

22 Also Present:

23 Farouk Mehio
24 Warren Grames
25

1 Q Did he do any damage to the door, that you know?

2 A I never checked. I didn't look that day and I
3 haven't looked since. So I doubt -- I don't think there
4 was.

5 Q What happened next?

6 A I put the phone down, told my dispatcher to
7 stay on the line, there was a problem at the door. She
8 went towards the door and opened the door to see who -- you
9 know, to open the door to Mehio, as I was following behind
10 her.

11 At that time, as soon as the door was unlocked
12 and the door was opened, Mehio burst into the apartment and
13 came into the apartment and was coming into the apartment
14 down her hallway as she was backing away from him. Then
15 I stepped between her and Mehio.

16 Q Then what?

17 A I told him, "Wait a minute," as I recall, something
18 to that effect, "Hey, I want to frisk you, you're under
19 arrest."

20 MR. HAWKES: Do you want to leave?

21 MR. MEHIO: I don't care to listen to lies.

22 MR. HAWKES: Apparently, we have a difference of
23 opinion on what happened.

24 (Whereupon, Farouk Mehio left the room.)

25 THE WITNESS: Prior to that time, both Vern Bliss and

1 responding to her address?

2 A I called as I realized -- I got in my car and
3 started responding immediately and realized my dispatch
4 I was en route from, if they had another car to that loca-
5 tion. I don't believe there was a car available at the
6 time. Well, I just responded.

7 Q Did you put on sirens or anything like that?

8 A No.

9 Q You didn't think she was in that much danger?

10 A Well, I used my judgment to get there as quickly
11 as possible without responding with lights and a siren.

12 Q During your experience with the Highway Patrol,
13 you no doubt have been involved in many incidents where
14 boyfriends and girlfriends, and so forth, get in arguments;
15 isn't that right?

16 A With my experience with the Highway Patrol?

17 Q Yes.

18 A No.

19 Q Very rarely?

20 A Not too often, no, sir.

21 Q You have them occasionally, I suppose?

22 A Yes.

23 Q When someone calls in and makes a complaint and
24 gives you a story such as karate and dangerous and so
25 forth and they want him arrested, do you just go arrest

IN THE THIRD JUDICIAL DISTRICT COURT

IN AND FOR SALT LAKE COUNTY

STATE OF UTAH

Civil No. C-8703482

--oOo--

FAROUK MEHIO,

Plaintiff,

vs.

JOHN GRABER, UTAH
HIGHWAY PATROL, and
THE STATE OF UTAH,

Defendants.

DEPOSITION OF

CAROLE JENSEN

(Taken by Plaintiff)

COPY

PURSUANT TO STIPULATION, the deposition of
CAROLE JENSEN was taken by the Plaintiff on Wednesday,
October 14, 1987, at the hour of 10:00 a.m., at 500 Huntsman
Goodson Plaza, 3760 South Highland Drive, Salt Lake City,
Utah, before DONALD J. JONES, Notary Public, Certified
Shorthand Reporter and Registered Professional Reporter.

* * *

SEELY, STACY, JONES & ASSOCIATES
CERTIFIED SHORTHAND REPORTERS

800 Boston Building
Salt Lake City UT 84111
328-1188

DONALD J. JONES, RPR

2661 Washington #202
Ogden Utah 84401
621-7477

A P P E A R A N C E S

- - - - -

For the Plaintiff: JAMES E. HAWKES, ESQ.
 500 Huntsman Goodson Plaza
 3760 South Highland Drive
 Salt Lake City, Utah 84106

For the Defendant THE STATE OF UTAH: EDWARD O. OGILVIE, ESQ.
 Assistant Attorney General
 236 State Capitol
 Salt Lake City, Utah 84114

For the Deponent: JOE HUGGINS, ESQ.
 520 Judge Building
 8 East Broadway
 Salt Lake City, Utah 84111

There also being present: MESSRS. FAROUK MEHIO SHARON
 ESPLIN and WARREN GRAMES

I N D E X

EXAMINATION	PAGE
By Mr. Hawkes	3
By Mr. Ogilvie	42
By Mr. Hawkes	60

1 A Well, he did beat on the window of the driver's side
2 of the truck and he was stamping his foot and he was screaming;
3 he was not calm in any way, shape or form.

4 Q Do you remember everything that he screamed?

5 A He just kept demanding that he wanted his clothes
6 and his jewelry back. At that point that's all he was
7 indicating.

8 Q Did you say anything at all to him?

9 A I believe I, you know, just told him to back off and

10 Q Those words, do you recall the exact words that he
11 used?

12 A I was really surprised by the whole situation. I
13 mainly said to the gentleman that I was with just get me out of
14 here, I'm not going to deal with him right now.

15 Q Did you say anything to Mr. Farouk?

16 A No, I did not other than the fact that, you know, to
17 back off.

18 Q You told him to back off?

19 A I did say leave me the hell alone.

20 Q Did you say anything else?

21 A No, I did not.

22 Q Did Mehio say anything else?

23 A I believe that he told the gentleman I was with once
24 to snut up, that he wanted his things and he wanted them now.

25 Q And when you say arrangements were made for him to

1 put the phone like this (indicating) on his shoulder and he
2 said their computers have been down and I'm just holding. At
3 just about that time someone knocked at my door and I asked the
4 officer if I should answer it and he just nodded yes. I went
5 to the door and I said who is it and Mehio screamed from the
6 other side of the door, "It is Mehio and I want my clothes and
7 my jewelry and I want them now."

8 Q All right. Then what happened?

9 A I came out of my entryway and I said to the officer
10 it's him, it's Menio.

11 Q Then what happened?

12 A The officer looked rather surprised and he just hung
13 up the phone, threw the phone down and he went to the door and
14 went to open it not realizing that I had locked it and he
15 unlocked the door and opened the door.

16 Q All right. Now, before I go any further, did you
17 tell the officer anything else up to that point?

18 A I told him what had happened out in the parking lot
19 and out on the freeway.

20 Q But there is nothing else that you told him?

21 A I believe at that time I told him that --

22 Q At which time, before he opened the door?

23 A Yes. Before he opened the door.

24 A I told him that I had never been so terrified in all
25 of my life.



INCIDENT REPORT



Date of Incident October 5, 1986 Type of Incident Aggravated Assault
 Date of Report October 5, 1986 Officer Reporting Trooper John Graber, #218
 Zone 2 Section 4 District F

I. SUMMARY

This report pertains to a complaint filed for aggravated assault and the subsequent arrest of the suspect for aggravated assault and resisting arrest.

II. DETAILS

1. I was called at the section office by a Vern Bliss. Mr. Bliss wanted to file a complaint against a Farouk Mehio. Mr. Bliss went on to relate that he was taking his girlfriend, Carole Jensen, out on her birthday when Mr. Mehio, Carole's ex-boyfriend, confronted them in the parking lot of her apartment.
2. Mr. Mehio was yelling at them and pounding on his windshield. Mr. Bliss attempted to leave several times, but Mr. Mehio would block his attempts. Mr. Bliss again tried to leave and Mr. Mehio got into his car and tried to ram them. This aggressive type of action continued on I-15 at 600 North. Mr. Mehio would cut in front and slam on his brakes to a stop, causing the Bliss vehicle to either brake hard or swerve to avoid being hit from behind or hitting Mr. Mehio. Mr. Mehio made three separate attempts at this action. Mr. Mehio tried to force them out of the right lane by cutting over into them. Mr. Mehio continued after them to 600 South I-15. Mr. Bliss got off at 600 South and went back into the city. Mr. Bliss lost Mr. Mehio and then took Carole Jensen home and then called the Highway Patrol from a pay phone.
3. I advised Mr. Bliss to contact the Salt Lake City Police Department since it appeared the incident started in the city. I told Mr. Bliss our department would help, and if the Salt Lake City Police Department didn't want to handle the case, the Highway Patrol could handle it.
4. I then gave Mr. Bliss my name and our case number for his reference. I obtained some information about Carole Jensen and then Mr. Bliss hung up. I realized I still needed some more information for my report. I called Carole Jensen to get what information I needed. Ms. Jensen told me when I called that Mr. Mehio had since showed up at her apartment and she was afraid he would return again. I went to 782 North 900 West to check the area for Mr. Mehio.
5. I learned from Carole Jensen that she had broken up with Mr. Mehio last January.
6. Mr. Mehio had beaten her, destroyed her personal property, and harrassed her, despite her attempts to get him to leave her alone.

LAKE COUNTY SHERIFF'S OFFICE				BOOKING AND PROPERTY RECORD				INMATE'S COPY			
NAME MEHIO FAROUK				DOB 04/25/40	DATE BOOKED 10/06/86	TIME 0036	INCIDENT REPORT NO. 64163	BOOKING NO. 0616192	SO NO. 150310		
AKAS				ARREST DATE 10/05/86	TIME 1615	ARREST LOCATION 782 N 900 W #204					
				ARRESTING OFFICER GRABER		OFFICER ID 218	AGENCY UT HIWAY PA		NO. PRIOR BOOKING 1		
				MF NO.	FBI NO.	BCI NO.	CDF NO. 456230				
CTS 1	M/F M	CHARGE OR COMMITMENT CG AGG ASSAULT CG RES ARREST	DOCUMENT NO.			BAIL OR SENTENCE NO BAIL 300.00			JUDGE SL CIR SL CIR		
<p>ONE DAY SHAW 10-06-86 / TIME 0036</p> <p>ETHER DAY SHAW 10-08-86 / TIME 1615</p> <p>LOCK UP</p>				201-3857							
BOOKED BY LAIRD		SEARCHED BY FRANDSEN		SHIFT SERGEANT ANDERSEN		RECORDS CHECKED BY JT/SONS		NCIC NEG	SHWL NEG	CITY NEG	OTHER
CASH 62.37		PRINTS & PICTURE CO FBI NEW								LAST PHOTO DATE 10/06/86	
PROPERTY HELD BY		PROPERTY HELD IN EVIDENCE					CAR IMPOUND LOCATION				
SEX MALE	RACE WHITE	AGE 46	POB LEBANON	HEIGHT 506	WEIGHT 141	HAIR BLK	EYES BRN	SOC. SEC. NO. UNKNOWN	DRIVER'S LIC. NO. 145524341		
SCARS, TATOOS, MARKS		LOCATION				DESCRIPTION				R/L HANDED RIGHT HND	
										EYE GLASSES Y	
OCCUPATION DESIGNER TAYLOR		HOME ADDRESS 141 1ST AVE				ZIP SALT LK CITY, UT				HOME PHONE NO. 328-8119	
EMERGENCY: NOTIFY (NAME, ADDRESS) JIM HANSEN		HIPWORTH				RELATIONSHIP SALT LK CITY, UT				EMERG. PHONE NO.	
EMPLOYED BY: (NAME, ADDRESS) HIPWORTH		SCMI CENTER				GOVERN. EMP. SALT LK CITY, UT				WORK PHONE NO.	
ARRESTEE'S CONDITION		INTOX BEEN DRNG	SICK NO	INJURED YES	MED NO	EXPLAIN SEE MEDICAL SCREENING					
		REMARKS									LAIRD
RELEASE INFORMATION		DATE		RELEASED BY				REASON FOR RELEASE			
		TIME		APPROVED BY							

1 IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

2 STATE OF UTAH

3 FAROUK MEHIO,)
4 Plaintiff,) CIVIL NO. C-8703482
5 vs.) DEPOSITION OF
6 JOHN GRABER, UTAH HIGHWAY) KATHLEEN B. DIGRE. M.D.
PATROL and THE STATE OF UTAH,) REPORTED BY
7 LINDA K. EISENBARTH
Defendants.) CSR, RPR

8
9 COPY
10
11
12

13 Deposition of KATHLEEN B. DIGRE, M.D., taken on
14 behalf of the Plaintiff, at the University of Utah Medical
15 Center, Department of Neurology, 50 North Medical Drive,
16 Salt Lake City, Utah, commencing at 11:05 a.m. on March
17 22, 1991, before LINDA K. EISENBARTH. Certified Shorthand
18 Reporter, Registered Professional Reporter and Notary
19 Public in and for the State of Utah, pursuant to Notice.
20
21
22
23
24
25

A P P E A R A N C E :

FOR THE PLAINTIFF: Plaintiff Appearing Pro Se

FOR THE DEFENDANTS: MR. EDWARD O. OGILVIE
 Assistant Attorney General
 Utah Attorney General's Office
 236 State Capitol
 Salt Lake City, Utah 84114

I N D E X

<u>EXAMINATION</u>	<u>PAGE</u>
By Mr. Mehio	3, 47
By Mr. Ogilvie	19

E X H I B I T S

<u>DEPOSITION EXHIBITS</u>	<u>INITIAL REFERENCE</u>
1 Three-page document illustrating diagrams	9
2 Curriculum Vitae, Kathleen B. Digre, M.D.	20
3 Miscellaneous documents from Dr. Digre's file	41
(Deposition Exhibits 1 through 3 attached.)	

1 appears?

2 A. Yes.

3 Q. You took a history of Mr. Mehio?

4 A. Uh-huh.

5 Q. And was that taken the first day you saw him,
6 October 11, '88?

7 A. Correct.

8 Q. Would you briefly tell us what history was
9 given to you?

10 A. Mr. Mehio told me that in October of 1986, he
11 was hit in the back of the head, smashing his head on the
12 floor without loss of consciousness, damaging his right
13 shoulder. He was apparently arrested and there was
14 something about crawling on the floor and neck and back
15 injuries. There was no blood or lacerations. He was then
16 seen ten days later by Doctor Thurber where he had a
17 cervical spine x-ray and a shoulder x-ray and he was given
18 muscle relaxants and Tylenol. He was told that there was
19 no permanent damage but he was reporting pain in the back
20 of his left side of his head, which was sharp, warm over
21 his head, which increased with cold. Heat also seemed to
22 aggravate it. It was not migrainous. He did not have
23 nausea or vomiting. He did not have visual difficulties.
24 He had been treated with multiple medications including
25 injections, muscle relaxants, Fiorinal Number 3 and

1 recently he had been started on some Amitriptyline. He
2 had no previous past medical problems. He had no previous
3 injuries. According to him, he had never hurt his head
4 before and he had not been a headache sufferer before.

5 Q. And all that you told me is entirely by
6 history?

7 A. By history only. Only by history.

8 Q. Any further detail at all given as to the
9 arrest and what occurred?

10 A. It was somewhat confusing and I didn't
11 understand exactly what for sure had happened. I tried to
12 take the best history I could from what I was given.
13 That's as much as I understood.

14 Q. All right. Other than what you have told us to
15 this point, is there anything else that you understand
16 about the arrest and what occurred?

17 A. No.

18 Q. There's no history from any source other than
19 from Mr. Mehio?

20 A. Well, there's some history from the Pain Clinic
21 and, you know, I can read their history. And I mean
22 there's some other history here, but I mean, I don't know
23 if you -- I assume that you will either take these
24 documents -- I mean these are not my history. It's the
25 only history that I have looked at, but you know, I wasn't

1 findings, if you would, that you have in support of your
2 diagnosis.

3 A. Well, he has decreased pin in the C2-3 area
4 which is in the distribution of the occipital nerve. It's
5 a sensory examination. And also tapping or gently rubbing
6 in that back area produces unpleasant sensations for him.
7 And both of those lead to the diagnosis of occipital
8 neuralgia.

9 Q. Okay. The decreased pin and the unpleasant
10 sensation, is that something that you can objectively
11 determine or is that dependent on his --

12 A. It's partially dependent on his report.

13 Q. Can you break that out for me as to --

14 A. Well, I mean in an examination, you have to
15 rely -- on some parts of the examination, you have to rely
16 on the patient to report, but an examination with a safety
17 pin brought normal sensation on the right side of his
18 occipital area. On the left side, it was abnormal. And
19 when stepping it out, it worked out to the area of C2-3.
20 It was not over it or under it. It was C2-3. And it's in
21 the distribution of the occipital nerve. And without his
22 prior knowledge of what that nerve might be, I think he
23 probably does have that defect.

24 Q. Now, what is the nature of that defect in terms
25 of what you would expect?

1 A. When you have a neuralgia, it usually means
2 that the nerve has been pinched, injured in some way and
3 it's responding in an abnormal way to cutaneous
4 stimulation. And we have, all of our nerves, sensory
5 nerves, have the potential of doing something like this,
6 giving us an unpleasant sensation. Usually it's in a
7 response to some kind of injury or alteration in the
8 normal structure or something like that.

9 Q. Let me look at -- I have got a copy of your
10 letter of January 11, 1991. Do you have that available?

11 A. Yes.

12 Q. I might look at that and maybe ask a few
13 questions based on the letter.

14 A. Sure.

15 Q. Let's see. It states, "Occipital neuralgia is
16 a -- I will try to pronounce it -- dysesthetic pain
17 usually caused by trauma to the greater occipital nerve."
18 I wonder if I could go back just a little bit and develop
19 that somewhat more. Usually caused by trauma. What are
20 the types of trauma that ordinarily cause that type of
21 condition?

22 A. It can be caused from anything that damages the
23 course of the occipital nerve. Okay. Direct blow to the
24 occipital nerve with a crush injury to the nerve. The
25 nerve itself comes through a muscle group so if there is a

1 pain or condition, as you understand it, from Mr. Mehio?

2 And I take it you would have to rely on what he says.

3 A. Right. From his history, he reports much pain
4 and debilitating pain to the point where he can't go
5 outside because of the cold hitting the back of his neck
6 and cold and heat seem to aggravate the pain that he
7 experiences. He is a tailor and so he sits for long
8 periods of time working on things and apparently it
9 inhibits his ability to keep working on things. He's
10 tried many medications which have not been successful in
11 eliminating the pain and he continues to suffer from it.

12 Q. Other than the one examination on October 11th,
13 have you examined him on subsequent occasions?

14 A. He came back to me on March 19th, 1991, and at
15 that time, he complained that he was on, still on multiple
16 medications to try to control his pain. That he's adapted
17 using neck wraps and trying to work out ways of not
18 getting in pain. Not going out in the cold, altering his
19 life-style to keep his pain under control. He continues
20 to have pain in that area. His examination is basically
21 unchanged. He had, continues to have an abnormal feeling
22 when I touched him in the C2 occipital nerve area in the
23 back of his head. The plantar response of the Babinski
24 response was absent in both sides and I had nothing new
25 neurologically that was abnormal on his examination.

OFFICE OF
THE ATTORNEY GENERAL



STATE OF UTAH

R. PAUL VAN DAM - ATTORNEY GENERAL

236 STATE CAPITOL • SALT LAKE CITY, UTAH 84114 • TELEPHONE 801 538 1015 •

JOSEPH E. TESCH
CHIEF DEPUTY ATTORNEY GENERAL

January 17, 1991

HAND DELIVERED

Honorable Kenneth Rigtrup
Third District Court Judge
240 East 400 South
Salt Lake City, Utah 84111

Re: Mehio v. Graber, Civil No. C-8703482

Dear Judge Rigtrup:

A trial brief for the above case is being prepared which we will have delivered to you by the end of next week. We will include copies of relevant cases. Turning to another matter, I am enclosing a copy of a pleading from Mr. Mehio captioned Plaintiffs Revised List of Doctors and Request for Court Rule. Inasmuch as Mr. Mehio has not complied with the Court's instructions limiting him to one physician, whose testimony would be limited to liability issues, I intend to file an appropriate objection with the court unless the court otherwise directs. If Mr. Mehio is limited to one physician, I am of the opinion that the case can be tried to a conclusion within two days.

Thank you for your consideration and assistance in the above matters.

Very truly yours,

Ed Ogilvie

EDWARD O. OGILVIE
Assistant Attorney General
Litigation Division

EOO/mh

cc: Farouk Mehio
1113 East 2100 South
Salt Lake City, Utah 84105

G



Behavioral Medicine and Pain Center

Behavioral Medicine

Scot W Russell Ph D

Clinical Director

Laura A Czaikowski, Ph D

Mark E Owens Ph D

Timothy W Smith, Ph D

May 23, 1988

Anesthesiology

Bradford D Hare M D, Ph D

Medical Director, Pain Center

Michael Ashburn M D

Perry G Fine, M D

Rehabilitation Services

Rose Ann Milano, M S, P.T

Physical Therapy and Exercise Physiology

Gael Allegra, P T

Bob Simpson, O T

Work Evaluation and Hardening

PAIN CENTER INITIAL EVALUATION - ANESTHESIA

PATIENT: Farouk Mehio

DATE: May 23, 1988

REFERRING PHYSICIAN: Dr. Bench, Salt Lake Clinic

MEDICAL RECORD NO: 629296-5

HISTORY OF PRESENT ILLNESS: The patient is a 47-year-old, Lebanese male who was involved in an assault in October of 1986 in which he received blows to the back of the head and neck. He subsequently developed a chronic pain syndrome involving the left neck and head area and also the left shoulder. He describes sleeping difficulties. His work is difficult because he is a tailor, and his work requires him to work intently with his head bent over which also exacerbates the pain. He describes tension or tightness and pain that is a deep ache in the left neck and left head area at this time. He also reports headaches. In the past he has received trigger point injections to the left shoulder area which gave significant improvement of his pain in that area. The pain in his neck and head is more recent.

Medications at this time include Naprosyn, 500 mg b.i.d., and also a muscle relaxant which he could not name. The patient has no drug allergies.

PAST MEDICAL/PAST SURGICAL HISTORY: Noncontributory, except as per HPI.

SOCIAL HISTORY: The patient was a pipe smoker in the past but has since quit, and he is a rare social drinker.

PHYSICAL EXAMINATION:

Vital Signs: Blood pressure--120/80.

HEENT: Within normal limits.

H

Neck: Exam revealed significant muscle tension and spasm in the left capitus muscles of the neck, and the patient had multiple trigger points that were elicited in the left neck muscles and the muscles of the scalp area on the left. There were no tender points or trigger points in the shoulder muscles on the left. The right neck, head, and shoulder were unaffected. There was good range of motion in the neck, overall, and no masses were palpated.

Cardiac: Rate regular and rhythmic without murmurs.

Lungs: Lung exam was clear to auscultation.

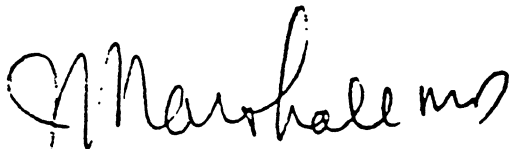
Abdomen: Benign.

Extremities: Clear.

Neurologic: Essentially within normal limits except for the findings in the left neck and scalp area.

ASSESSMENT: Chronic pain syndrome of the left neck, head, and shoulder areas following a traumatic injury.

PLAN: Trigger point injections to the left neck and head area. On his initial visit the patient received 7 trigger point injections in the left neck area and scalp with 7 cc of 1/4% Marcaine. A return to clinic was scheduled 2 days following his initial visit for further assessment and possible repeat trigger point injections.



James Marshall, M.D.
Anesthesia Pain Resident



Robert Craveiro, M.D.
Anesthesia Pain Fellow

JM:js



Behavioral Medicine and Pain Center

Behavioral Medicine

Scot W. Russell, Ph.D.

Clinical Director

Laura A. Czajkowski, Ph.D.

Mark E. Owens, Ph.D.

Timothy W. Smith, Ph.D.

Anesthesiology

Bradford D. Hare, M.D., Ph.D.

Medical Director, Pain Center

Michael Ashburn, M.D.

Perry G. Fine, M.D.

Rehabilitation Services

Rose Ann Milano, M.S., P.T.

Physical Therapy and Exercise Physiology

Gael Allegra, P.T.

Bob Simpson, O.T.

Work Evaluation and Hardening

August 5, 1988

Kathleen Digre, M.D.
Department of Neurology
University of Utah Medical Center

Dear Kathleen,

I would like to refer Mr. Farouk Mehio, who is complaining of chronic pain of the left head, neck, and shoulders, reportedly following traumatic injury. We have enclosed our evaluation reports.

Despite multi-disciplinary attempts at outpatient pain treatment, he continues to have substantial problems. I would appreciate your help on whether anything else can be done for Mr. Mehio's headache problem.

Sincerely yours,

Scot W. Russell, Ph.D.
Clinical Director

SWR/gp



Behavioral Medicine and Pain Center

Behavioral Medicine

Scot W. Russell, Ph.D.

Clinical Director

Timothy W. Smith, Ph.D.

Anesthesiology

Bradford D. Hare, M.D., Ph.D.

Medical Director, Pain Center

Peter L. Bailey, M.D.

Perry G. Fine, M.D.

Rehabilitation Services

Rose Ann Milano, M.S., P.T.

Physical Therapy and Exercise Physiology

Max Queen, O.T.R.

Work Evaluation and Hardening

PHYSICAL THERAPY EVALUATION

Patient: Farouk Mehio Date: 5/3/88

Examined by: RA. Milano, P.T., M.S.

Referred by: Dr. Bench - S.L. Clinic.

Chief Complaint: the (L) posterior skull-neck-region - post trauma

Pain Rating: 0 1 2 (3) 4 5 + this

Range of Motions: Neck tightness, + forward posture area —

TMJ's OK

Shoulders: (R) NL (L) NL

Elbows: R L

Hips: R L

Knees: R L

Ankles: R L

Spine Exam: Trunk Flex _____
Trunk Extension _____
Side Bends _____
Rotations _____
Paraspinal Tone _____

Skeletal Function:

Facet Joints _____

Spine Curvatures _____

Hips: (R) NL (L) NL

Knees: (R) NL (L) NL

Shoulders: (R) N (L) N
 Others: _____

Gait Analysis: (Correlations with other findings) N/A

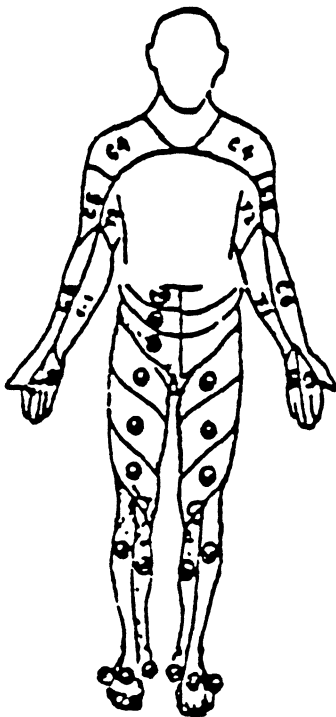
Muscle Exams: Lumbar Spine _____

Thorasics N/L

Cervical/Capitus Some capitus felt - TP's in small skin/neck muscle

Neurological: DTR's NL Other _____

Myotomal/Dermatomal NL Other _____



Sensation:

Sympathetic Changes NL

Dermatomal Distributions NL

Other _____

Myofascial Trigger Points in involved areas:

Yes No

Functional Assessment:

over last week can:

walk 1/2 mile _____ over 1/2 mile ✓

over 1 mile _____

bike 1 mile _____ over 1 mile _____

jog 1/2 mile ✓ over 1 mile _____

climb stairs ✓

used to go for long runs

vacuuming home ✓

rake yard _____ shovel _____

Sit 14 min. _____ 20 min. _____ 30 min. ✓ + 40+ min. _____

Stand 15 min. _____ 25 min. ✓ 35 min. _____ 45 min. _____

Very functional man - runs tailoring business
 would like to be more functional socially

OTHER INFORMATION: 47 yr. old Lebanese ♂ — Oct. 1986

was engaged in a "fight" — beat up by another man —
blows to back of head resulted in this pain —
much improvement in 1st year — but in cold-winter
noticed ↑ in tension — pain in posterior ② skull —

SUMMARY/RECOMMENDATIONS:

and small area of neck —
fears that this is something he will have to
live with — or it is a sign of something that will
get worse —

Impression: Small #
of soft tissue

trigger points — some

posteriorly against these, that T's tension —

He could benefit from some short term out-pat. tx
needs reassurance that he can manage

this pain — that it is not an on going
disease —

Robert K. Kline, PT, MS-
Therapist
Division of Behavioral Medicine

RANDALL E. GRANT
DOUGLAS E. GRANT

GRANT & GRANT
ATTORNEYS AND COUNSELORS AT LAW
349 SOUTH 200 EAST, SUITE 410
SALT LAKE CITY, UTAH 84111-2811
TELEPHONE (801) 364-7777

W. ELDREDGE GRANT, JR.
OF COUNSEL
FAX (801) 364-7779

October 8, 1990

Mr. Farouk Mehio
1113 East 2100 South
SLC, UT 84106

Re: Drs. Evans, Evans & Evans, Inc.

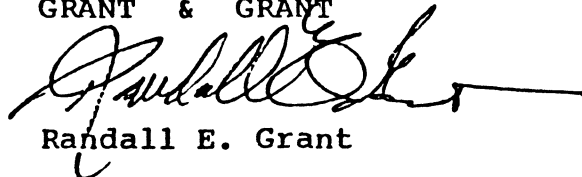
Dear Mr. Mehio:

As you know, this firm represents Drs. Evans, Evans & Evans, Inc.

Dr. Burtis R. Evans has reviewed your letter dated September 7, 1990 and the copy of the Minute Entry and Order on Pre-Trial Settlement Conference. He informs me that he does not have any records regarding an accident and would not be of any help to you in your trial. Therefore, Dr. Evans is not planning to testify at the trial.

Very truly yours,

GRANT & GRANT



Randall E. Grant

REG/mb

cc. Burtis R. Evans, M.D.

RANDALL E. GRANT
DOUGLAS E. GRANT

GRANT & GRANT
ATTORNEYS AND COUNSELORS AT LAW
349 SOUTH 200 EAST, SUITE 410
SALT LAKE CITY, UTAH 84111
TELEPHONE (801) 364-7777

OF COUNSEL
W. ELDREDGE GRANT, JR

May 10, 1988

Mr. Edward O. Ogilvie
Assistant Attorney General
Litigation Division
STATE OF UTAH
236 State Capitol
Salt Lake City, UT 84114

Dear Mr. Ogilvie:

Re: Mehio, Farouk

Please be advised that this firm represents Drs.
Evans, Evans & Evans, Inc.

The enclosed medical records are true and correct
and are a complete record of Farouk Mehio. Also enclosed
is a statement for the copying of Mr. Mehio's medical
records.

Sincerely yours,

GRANT & GRANT



Randall E. Grant

REG/cw

Enclosures: medical records
statement

k

PATIENT'S PERSONAL HISTORY

Patient No _____

Date _____

Confidential Record Information contained here will not be released except when you have authorized us to do so

Last Name <u>MEHIO</u>		First <u>FARUK</u>	Middle <u>NO</u>	Birth Date <u>4-25-40</u>	Birth Place <u>LEBATEH</u>
Address <u>155 2ND AVE</u>		City <u>UTAH</u>	State <u>84101</u>	Zip <u>4-25-40</u>	Home Phone <u>359-8781</u>
Occupation <u>TAILOR</u>	Medicare No <u>-</u>	Medicaid No <u>-</u>	Sex <u>M</u>	Marital Status <u>X</u>	Religion <u>-</u>
Insurance Company <u>-</u>			Insurance No <u>-</u>		

Person to Notify _____ Relationship _____

Address _____ Phone Number _____

Date of Last Physical Examination _____ Doctor _____

Family or Referring Physician _____ Address _____

FAMILY HISTORY	Sex		If Living		If Deceased	
	Age	Health	Age at Death	Cause		
Father	<u>67</u>	<u>was good</u>	<u>65</u>	<u>STROKE</u>		
Mother	<u>65</u>	<u>was good</u>	<u>39</u>	<u>I DON'T KNOW</u>		
Brothers/Sisters* (Circle Sex)						
	M	F				
	M	F				
	M	F				
	M	F				
	M	F				
Husband/Wife						
Sons/Daughters* (Circle Sex)						
	M	F				
	M	F				
	M	F				
	M	F				
	M	F				

*Since some names may be used for either men or women please circle sex for each Brother, Sister, Son or Daughter

Do you know of any blood relative who has or had (Circle and give relationship)

Stroke <u>NO</u>	Epilepsy <u>NO</u>	Heart Attack <u>YES</u>	Nervous breakdown <u>NO</u>
Cancer <u>NO</u>	Suicide <u>NO</u>	Stomach ulcers <u>NO</u>	Rheumatic heart <u>NO</u>
High blood Pressure <u>YES</u>	Migraine <u>NO</u>	Kidney disease <u>NO</u>	Insanity <u>NO</u>
Tuberculosis <u>NO</u>	Asthma <u>NO</u>	Goiter <u>NO</u>	Congenital heart <u>NO</u>
Diabetes <u>NO</u>	Hay fever <u>NO</u>	Arthritis <u>NO</u>	
Leukemia <u>NO</u>	Bleeding tendency <u>NO</u>	Colitis <u>NO</u>	

PERSONAL HABITS: (Circle)

☒ Yes ☐ No Do you regularly smoke? Cigarettes ☐ Pipe ☒ Cigars ☐ For how many years? 22

☒ Yes ☐ No Do you usually drink over 6 cups of coffee per day?

☒ Yes ☐ No Do you regularly drink alcohol? 1 oz per day ☒ 2 oz per day ☐ 4 oz per day ☐ over 6 oz ☐

☒ Yes ☐ No Do you have difficulty in falling asleep?

☒ Yes ☐ No Do you awaken early in the morning without apparent cause?



THE ATTORNEY GENERAL
STATE OF UTAH

DAVID L. WILKINSON
ATTORNEY GENERAL

PAUL M. TINKER
CHIEF DEPUTY ATTORNEY GENERAL

DALLIN W. JENSEN
Solicitor General

EARL F. DORRIS, CHIEF
Governmental Affairs Division

STUART W. HINCKLEY, CHIEF
Human Resources Division

FRANK G. NELSON, CHIEF
Physical Resources Division

PAUL M. WARNER
ASSOCIATE DEPUTY ATTORNEY GENERAL

STEPHEN G. SCHWENDIMAN, CHIEF
Tax & Business Regulation Division

STEPHEN J. SORENSON, CHIEF
Litigation Division

MICHAEL D. SMITH, CHIEF
Civil Enforcement Division

February 3, 1988

James E. Hawkes, Esq.
Huntsman Goodson Plaza, Suite 500
3760 South Highland Drive
Salt Lake City, Utah 84106

Re: Mehio v. Graber, et al.

Dear Mr. Hawkes:

Referring to the criminal prosecution of January 19, 1988, wherein Mr. Mehio was convicted of resisting apprehension, I would strongly suggest that Mr. Mehio agree to dismiss his suit with prejudice. Your letter of December 23, 1987, responding to my stipulation and order for dismissal intimates that you are unwilling to do so. As you and I discussed earlier, we are convinced that Mr. Mehio has brought a bad faith claim--we are not interested in seeing this matter resurrect itself at some future date. Further, inasmuch as Mr. Mehio could not even prevail in a criminal proceeding under charges that are difficult to convict on under the best of circumstances, I think there can be little doubt as to the outcome of Mr. Mehio's civil suit. Until such time as you may be willing to reconsider your position, I feel I have no choice but to pursue my earlier motion to ensure that our expenses and attorney's fees will be guaranteed by a sufficient undertaking as called for by statute.

I should also state that we take a very dim view of the reported harassment and threats made by Mr. Mehio against Carol Jensen and view Mr. Mehio's conduct as serious interference with a material witness. Accordingly, we may have to consider appropriate steps to put an end to further such harassment.

James E. Hawkes, Esq.
February 3, 1988
Page Two

In conclusion, while I would hope to resolve this case by a simple dismissal on the merits, I feel that we need to take appropriate steps to enforce § 78-11-10 prior to taking Mr. Mehio's deposition and preparation of this case for trial.

Very truly yours,

Edward O. Ogilvie

EDWARD O. OGILVIE
Assistant Attorney General
Litigation Division

EOO/sh



January 11, 1991

Re: Farouk Mehio

To Whom It May Concern:

Occipital neuralgia is a dysesthetic pain usually caused by trauma to the greater occipital nerve. Attached are drawings of the greater occipital nerve. According to Neil Raskin, a headache specialist and well-known authority, greater occipital neuralgia is almost always secondary to direct trauma to the nerve and causes "occipital burning pain with or without superimposed 'pins and needles' discomfort. Lancing, icepick-like pain is another common presenting complaint."

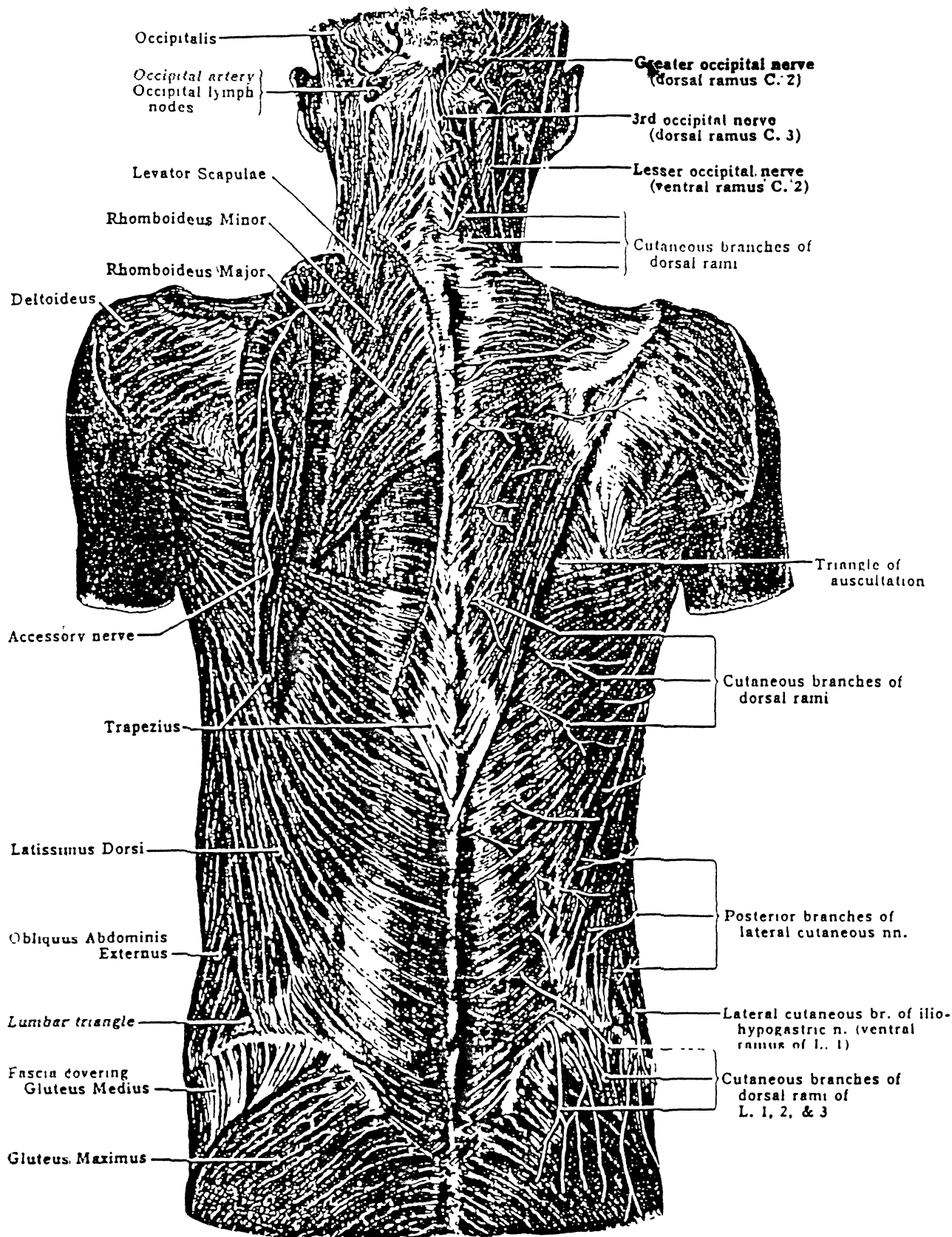
I hope this is helpful to you. If you have any questions, please feel free to contact us.

Sincerely,

Kathleen B. Digre, M.D.

KBD:mts/lrb

Enclosures
[17]

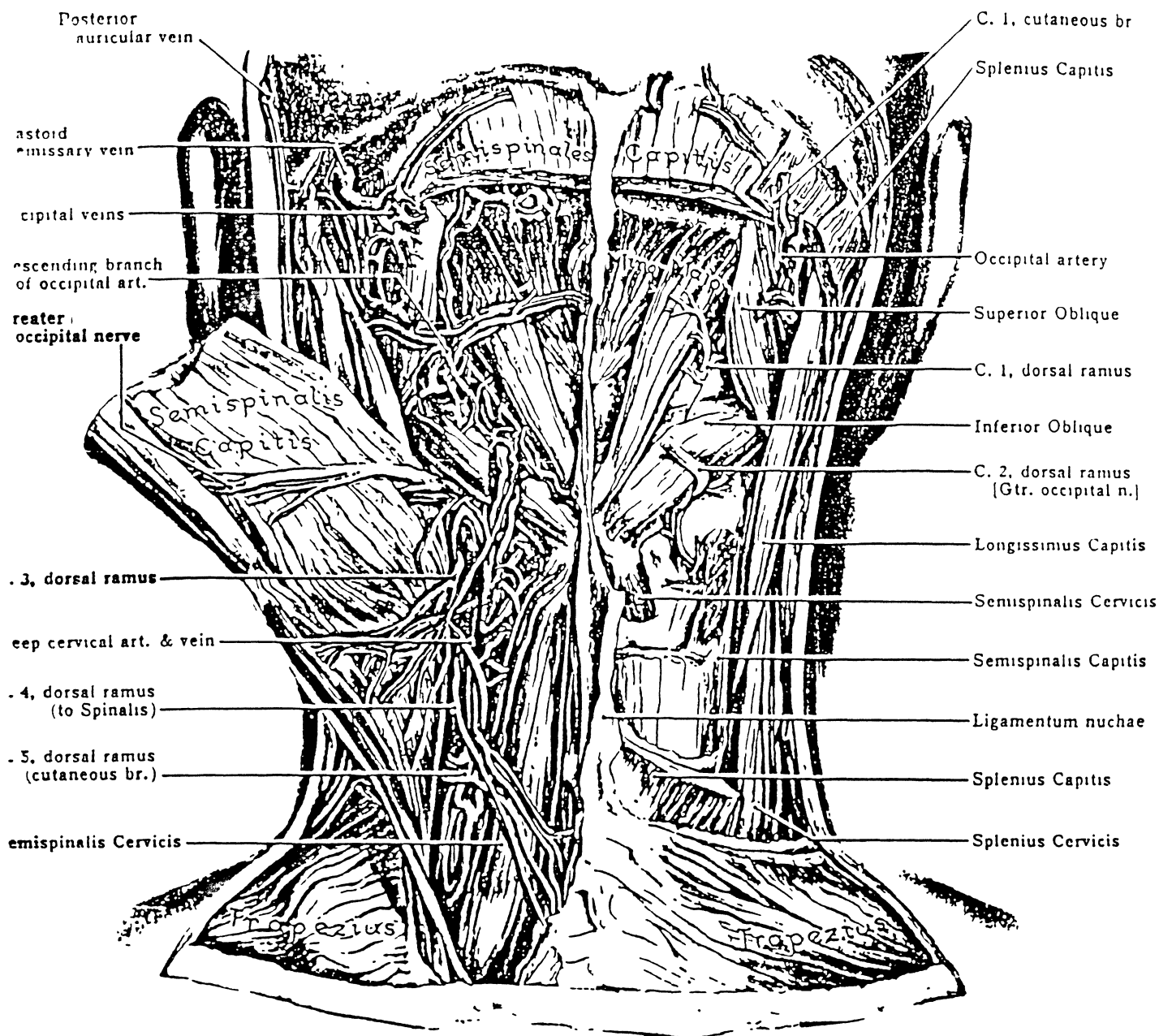


477 Superficial Muscles of the Back—I

On the left side, Trapezius is reflected.

Note: 1st layer—Trapezius and Latissimus Dorsi.

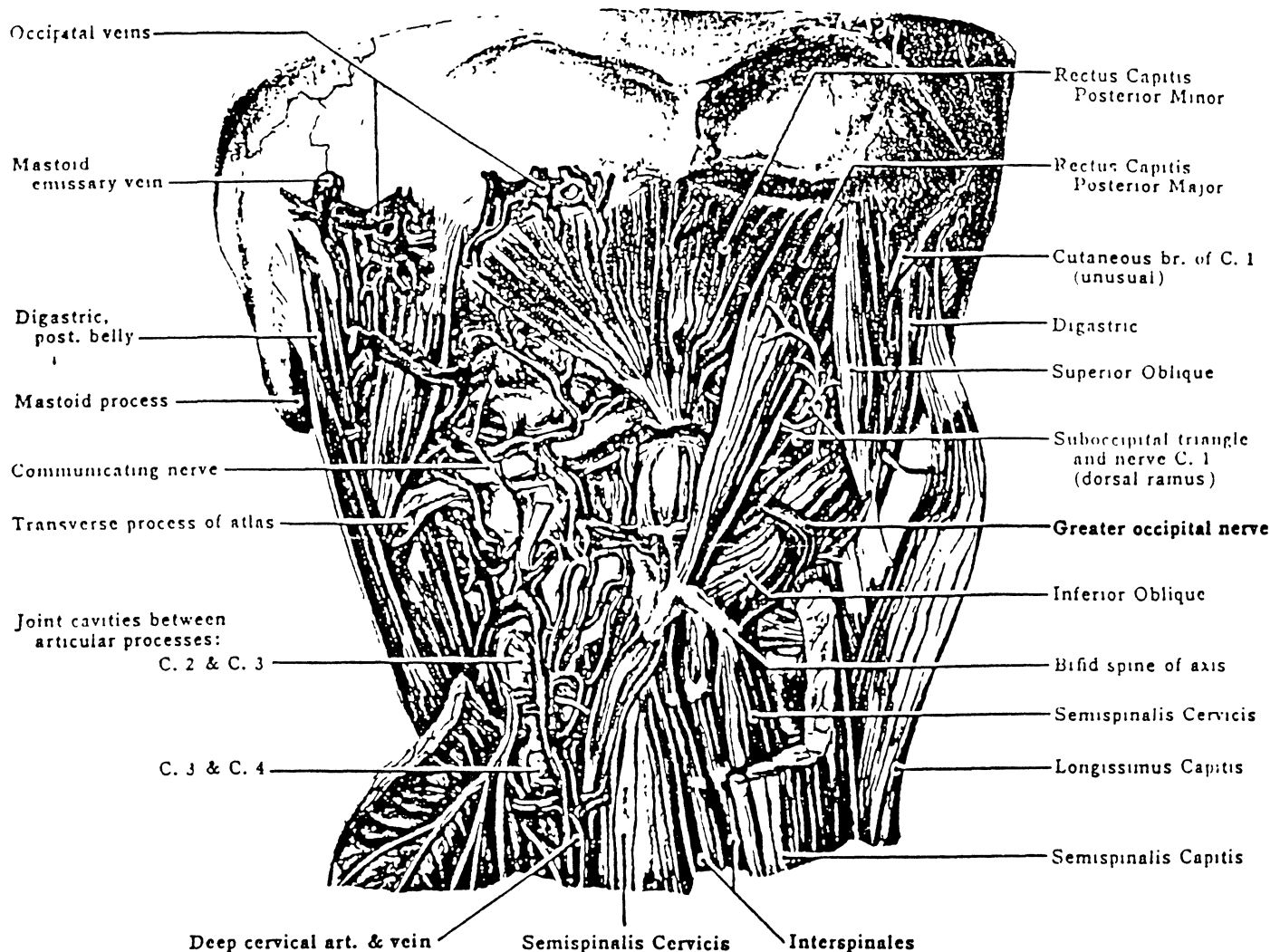
2nd layer—Levator Scapulae and Rhomboidei Minor et Major.



491 Suboccipital Region—II

Observe:

1. The ligamentum nuchae, which represents the cervical part of the supraspinous ligament, as a median, thin, fibrous partition attached to the spines of the cervical vertebrae and the external occipital crest. Its posterior border gives origin to Trapezius and extends upward to the union or external occipital protuberance.
2. Rectus Capitis Posterior Minor (paired), the only muscle attached to the posterior tubercle of the atlas, which accordingly is upturned. (The atlas has no spine.)
3. The suboccipital nerve (C. 1, post. ramus) supplying the 3 muscles bounding the suboccipital triangle, also Rectus, Capitis Minor, and communicating with the greater occipital nerve.
4. The 1st cervical nerve, here delivering a cutaneous branch—which is unusual.
5. The descending branch of the occipital artery anastomosing with the deep cervical artery (a branch of the subclavian).
6. The posterior vertebral venous plexus. This plexus is largely imbedded in fascia, is usually empty and therefore inconspicuous, and hence is removed unnoticed with the fascia unless specially injected, as here, or engorged with blood.
7. Longissimus Capitis being the only section of Erector Spinae to reach the skull.



492 Suboccipital Region—III

On the left side, Rectus Capitis Posterior Major and Obliquus Capitis Inferior are removed.

Observe:

- 1 Rectus Capitis Posterior Major ascending from the spine of the axis to the occipital bone. Obliquus Capitis Superior ascending from the tip of the transverse process of the atlas to the occipital bone. Obliquus Capitis Inferior passing from spine of axis to tip of transverse process of atlas.
2. The foregoing 3 muscles, (viz. Inf. Oblique, Rectus Major, and Sup. Oblique), forming the sides of the suboccipital triangle, which lies within the suboccipital region, whose lower limit is the axis
3. Rectus Capitis Posterior Minor arising from the posterior tubercle of the atlas and therefore lying on a deeper plane than the Posterior Major, which arises from a spine.
4. The posterior arch of the atlas forming the floor of the suboccipital triangle. The posterior atlanto-occipital membrane (not labelled) passing from that arch to the margin of the foramen magnum above, and the posterior atlanto-axial membrane passing to the lamina of the axis below. The vertebral artery lying on the arch; the suboccipital nerve (i.e., dorsal ramus of C. 1) appearing between arch and artery and supplying the two straight muscles (minor and major) and the two oblique muscles (superior and inferior).
5. The gaps in these membranes through which pass nerve C. 1, the vertebral artery, the veins accompanying this artery, and nerve C. 2.
6. A branch connecting the dorsal rami of nerves C. 1 and C. 2 behind the posterior arch of the atlas.

In figure 561 the ventral rami of these nerves are seen in communication.



**BAYLOR
COLLEGE OF
MEDICINE**

One Baylor Plaza
Houston, Texas 77030-3498

Department of Neurology
TEL (713) 798-5971
FAX (713) 798-5864

FARKOUK MEHIO

INITIAL NEUROLOGICAL EVALUATION: 05/15/91

HISTORY: This is a 51-year-old, right-handed Lebanese gentleman who presents with left posterior headache and episodic dizziness since an injury sustained on October 5, 1986. At that time the patient allegedly received undue pressure and blows to the right occiput when a police officer attempted to restrain him. Apparently, he was visiting his girl friend who misrepresented his intentions. He was slammed against the wall and the police officer allegedly hit his palm or fist against the back of his head and was jerking him back and forth. He was thrown down on his left knee, sustained a bruise therein and subsequent to this experience, he has had chronic headaches. He was seen in a pain clinic in Utah where he received a left greater occipital nerve block with temporary relief. He subsequently received several blocks but with no sustaining effect. He is on Tegretol, Fiorinal, Xanax and amitriptyline. He has been disabled since the accident. Litigation is still in progress regarding this incident. He presents today reporting that his pain is pressuring and throbbing in quality with some pins and needles sensation in the region of the left posterior scalp. The pain is all that he can think about--it is made worse by cold weather. The pain prevents him from doing what he enjoys and makes him want to give up. He cannot sleep unless he takes sedative medications. The patient is a tailor and designer by trade and his work has been drastically curtailed allegedly since this injury. Currently, on a Visual Analog Scale the pain measures roughly 45 mm with medication on board.

MEDICATIONS: Pepcid 40 mg q.d., Fiorinal #3 (he takes up to five tablets a day at times), Tegretol 200 mg t.i.d., Elavil 275 mg q.h.s. and at one point he was also taking Tofranil in conjunction.

PHYSICAL EXAMINATION: Vital Signs: Blood pressure was 130/80, pulse was 88, respiratory of 16, weight of 171 pounds, and height was 5 feet 6 inches. HEENT Examination: Noted for irritability in the region of the left greater occipital nerve. Fundi are normal. Vision 20/100 on the left 20/50 on the right. Neck: Supple without nodes. There is mild trigger point in the left trapezius. Chest: Clear to auscultation and percussion. Cardiac Examination: Normal S1 and S2 without murmur. Abdomen: Soft, nontender. Extremity Examination: Unremarkable.

NEUROEXAMINATION: Mental Status: He is alert and oriented times three. He is not completely proficient in English. He is a compulsive talker; seemingly obsessed with his predicament. He is also notably depressed. Cranial Nerves Examination: II. through XII. - No deficits except hyperacusis left ear. Motor Examination: 5/5 throughout. Sensory: Intact to all modalities including

Farkouk Mehio

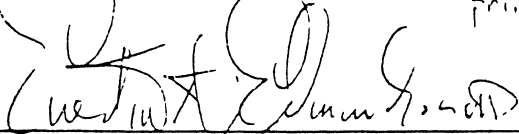
05/15/91

Page 2

sensation along the left scalp. Cerebellar: Normal finger-to-nose and rapid alternating movements. Reflexes: 2+ and symmetric. Gait: Normal.

IMPRESSION: Posttraumatic headache, very consistent with left greater occipital neuralgia; also possible posttraumatic vestibular dysfunction, but this is by history--physical findings are minimal.

PLAN: I would suggest ENG, audiometry, checking his Tegretol level, CBC and Chemzyme. He may benefit from Anafranil instead of Elavil in attempts to wean him of Fiorinal #3. Since he lives a great distance from Houston, it is not practical to make major adjustments in his medical regime at this time. I have explained to the patient that my principle role at this junction is diagnostic.



Everton A. Edmondson, M.D.
Assistant Professor

EAE/cs

NORTH REDWOOD OFFICE
679 North Redwood Road
Salt Lake City, Utah 84116
(801) 322-3481

FOOTHILL OFFICE
1400 Foothill Blvd., Suite 101
Salt Lake City, Utah 84108
(801) 582-7767

MEMORIAL MEDICAL OFFICE
2000 South 900 East
Salt Lake City, Utah 84105
(801) 486-6941

Salt Lake Clinic

MAIN OFFICE
333 South 900 East
SALT LAKE CITY, UTAH 84102
(801) 535-8163

SANDY OFFICE
9500 South 1300 East
Sandy, Utah 84094
(801) 576-2100

DRAPER OFFICE
953 East 12400 South
Draper, Utah 84020
(801) 576-1086

TAYLORSVILLE OFFICE
3845 West 4700 South
Taylorsville, Utah 84118
(801) 964-4070

April 17, 1992

Re: MEHIO, Farouk
SLC# 63-79-44

To Whom It May Concern:

This letter is in behalf of Mr. Farouk Mehio. I have been seeing this patient since July of 1991 for chronic post-traumatic head pain. It should be noted, that I am the fifth in a series of neurologists that have seen Mr. Mehio for this problem, and that he came to me essentially on the regimen I will describe below. In addition, he has also seen the personnel at the University of Utah Pain Center back in 1988, as well as a number of other physicians, including orthopedists and rheumatologists.

Mr. Mehio's problem as he tells me is as follows: He sustained a traumatic injury to the back of his head in October of 1986 during some type of domestic altercation that involved the police department. Since that time, he has had shoulder and neck pain and stiffness, and also sharp pain which is referred to the area above and behind the left ear. This problem is more less constant with exacerbation by various factors which are elucidated in the chart record. This has been alternatively diagnosed as occipital neuralgia and post-traumatic headaches by the various neurologists that have seen him. He has been on multiple medications, but the one described below he has been on, more less, since I have seen him. He has had multiple cranial images, which to this point have been unremarkable, but have not been done at the Salt Lake Clinic and all I have are reports of them. At the Salt Lake Clinic, he had cervical spine x-rays, which showed mild to moderate cervical degenerative changes.

The medications he is currently taking include amitriptyline 300 mg at night. This medication is thought to interrupt central pain pathways through involvement of the serotonergic neurotransmitter system. He is on Tegretol 200-400 mg a day. This is a medication we use in pain thought to be of neuritic origin in an attempt to stabilize nerve membrane function. He is on Fiorinal with codeine, one to three tablets a day. This is a narcotic pain reliever with some barbiturates and aspirin as well. He is on Xanax 0.25 mg a day for anxiety type symptoms, involving primarily aggravation with some neighbors that he has. He is on Pepcid 40 mg a day, which is to protect from gastric irritation and peptic ulcer disease symptoms.

As mentioned above, this regimen is how I inherited this patient and was not of my own device, however, we have been able to reduce his intake of narcotic pain relievers by approximately one half. To do this, we have attempted to



Re: NEH10, Farouk

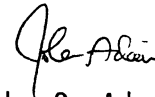
April 17, 1992
Page 2

use physical therapy as one additional modality for pain relief, although the physical medicine physician does not think that ongoing therapy will be of much use to this patient. He has been refractory to my attempts to get him in to see psychologists for therapy dealing with self-hypnosis and relaxation training.

At present, the prognosis for this patient is poor. He has chronic pain syndrome requiring fairly complex regimen of medication for any type of symptomatic relief. There is no easily recognizable organic substrate for the problem, such as a tumor or some other problem to surgically remove. As such, I fear that he may be impaired by these symptoms for the foreseeable future. We will continue our attempts to reduce his intakes of all medications, starting of course with the narcotics. I am hoping that a disposition of any sort with regard to his legal situation will also remove some of the psychological stresses which, no doubt, continue to his ongoing pain syndrome.

Let me know if further questions are necessary. His records are available for your review.

Sincerest regards,



John C. Adair, M.D.

JCA/TL435
QLTNEHF1.JCA
1067922



LDS HOSPITAL
ALTA VIEW HOSPITAL
COTTONWOOD HOSPITAL

GARY WM FARNES, CHIEF EXECUTIVE OFFICER

Physical Therapy Department
LDS Hospital
Eighth Avenue and C Street
Salt Lake City Utah 84143
(801) 321-1100

April 6, 1992

To whom it may concern:

Re: Farouk Mehio

Mr. Mehio was originally evaluated on 9/16/91. At that time I found that he had a tender left temporalis muscle, a left suboccipital, sternocleidomastoid, and masseter muscles. No pain was found on the right side. He had a vertical opening of the mandible of 45 mm. with no deviation, however, his laterals were extremely limited, being 1 mm. to each side. This was felt to be from poor pterygoid control. His neck range of motion was within normal limits with the exception of rotation, which was limited to both the left and right sides. He did, however, have discomfort with all of the motions.

I expect that Mr. Mehio may have some damage in the fascial nerve distribution per Dr. David Ryser. I recommended to him that he continue trying to keep the area warm using hats, etc. He also needed to continue with the exercises prescribed. I did not feel that he would benefit from further physical therapy at this time, however, he will need to continue doing the exercises to help control the pain he is experiencing.

Sincerely,

Wendy Zeigler /db
Wendy Zeigler, P.T.
Outpatient Physical Therapy

WZ:db